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Attorneys for Defendant TA Operating LLC

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

TOMMIE SHARP, an individual,
Plaintiff,
v.
TA OPERATING LLC dba TRAVELCENTERS OF
AMERICA,
Defendant.

Case No. 3:20-cv-01143 IM

**DEFENDANT TA OPERATING LLC
dba TRAVELCENTERS OF
AMERICA'S ANSWER AND
AFFIRMATIVE DEFENSES TO
PLAINTIFF'S COMPLAINT**

COMES NOW Defendant TA Operating LLC dba TravelCenters of America ("TA Operating"), by and through its attorneys, and in Answer to Plaintiff Tommie Sharp's Complaint, admit, deny, or allege the following:

1.

In response to Paragraph 1, TA Operating admits.

2.

In response to Paragraph 2, TA Operating admits.

/ / /

3.

TA Operating lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 and, therefore, denies the same.

4.

In response to Paragraph 4 and each of its subparts, TA Operating denies.

5.

In response to Paragraph 5, TA Operating denies.

6.

In response to Paragraph 6, TA Operating denies.

7.

Except as specifically admitted in this Answer, TA Operating denies any and all remaining allegations not specifically addressed in this Answer.

AFFIRMATIVE DEFENSES

TA Operating has not yet had the full opportunity to conduct a reasonable inquiry of the facts underlying this lawsuit, but based upon its current knowledge, information and belief, TA Operating asserts the following affirmative defenses, some or all of which may ultimately be supported by the facts to be revealed in discovery and investigation of this case. Upon request and/or after having conducted discovery in this case, TA Operating will withdraw defenses that are unsupported by the facts revealed in pretrial discovery and investigation, should there be any such defenses. On the basis of the above, by way of further answer to Plaintiff's Complaint, TA Operating alleges:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

8.

Plaintiff's Complaint fails to state a claim for relief against TA Operating upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Comparative Fault)

9.

Plaintiff's claims are barred, in whole or in part, because Plaintiff's alleged damages, if any, were caused in whole or in part by Plaintiff's own negligence, including his failure to properly look out for his own safety.

THIRD AFFIRMATIVE DEFENSE

(Fault of Others)

10.

Plaintiff's alleged damages, if any, were caused in whole or in part by the actions, omissions, and/or conduct of others over whom TA Operating exercised no control, and Plaintiff is not entitled to recover any damages from TA Operating on the basis of those actions, omissions, and/or conduct.

FOURTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

11.

Plaintiff's claims are barred, in whole or in part, because if any damages are proved to be caused by TA Operating, such damages could have and should have been remedied at a more reasonable expense.

FIFTH AFFIRMATIVE DEFENSE

(Superseding Cause)

12.

Plaintiff's claims are barred because the injuries or damages Plaintiff complains of may have been actually or proximately caused, in whole or in part, by the intervening or superseding conduct of Plaintiff or independent third parties, or by events that were extraordinary under the circumstances or not foreseeable in the normal course of events.

SIXTH AFFIRMATIVE DEFENSE

(Offset)

13.

TA Operating is entitled to an offset against any damages that it may owe, in the amount of any damages that Plaintiff has already recovered from others.

(Reservation of Rights)

14.

TA Operating reserves the right to amend this Answer to include additional affirmative defenses, which further discovery or investigation discloses are appropriate.

PRAYER FOR RELIEF

WHEREFORE, having fully answered Plaintiff's Complaint, TA Operating requests the following relief:

1. That Plaintiff recover nothing by reason of his Complaint;
2. That judgment be entered against Plaintiff and in favor of TA Operating;
3. That Plaintiff's Complaint be dismissed with prejudice;
4. That TA Operating be awarded its costs and disbursements incurred herein; and
5. That TA Operating be granted such other and further relief as the Court may deem just and equitable.

DATED this 23rd day of July, 2020

GORDON REES SCULLY MANSUKHANI,

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of July, 2020, a true and correct copy of the foregoing document, which was filed with the Court through the CM/ECF system, will be sent electronically to all registered participants as identified on the Notice of Electronic Filing:

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